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The Section 8 Voucher Renewal Funding Formula: Changes in Appropriations Acts

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Summary

Changes enacted by Congress during the appropriations process in each of the past several years have significantly altered the way that public housing authorities (PHAs) receive funding to administer the Section 8 Housing Choice Voucher program. Prior to FY2003, PHAs received funding for each voucher they were authorized to administer, based on their average costs from the previous year, plus inflation, referred to as "unit-based" funding. Most PHAs were not using all of their vouchers, due in part to rental market conditions, and each year the Department of Housing and Urban Development (HUD) was able to recapture unspent funds. In FY2001 and FY2002, some Members of Congress began expressing concern about the underutilization of vouchers and the amount of recaptures.

Beginning in FY2003, and culminating in FY2006, Congress fundamentally changed the way PHAs received voucher funding. The changes were designed to limit the amount of unspent funds held by PHAs and limit the cost of vouchers, which had begun to grow rapidly in 2001 and 2002, due in part to market changes and in part to policy changes. In FY2006, PHAs were funded based on the amount of funding they had received in the previous year (regardless of changes in their costs and utilization), plus an inflation adjustment, prorated to fit within the amount appropriated. Under this formula, the funding needs of the program became more predictable, but some agencies received more funding than they were legally permitted to spend, while other agencies did not receive enough funding for all of the vouchers they were authorized to administer. The Bush Administration supported this conversion to a "budget-based" formula and requested that Congress enact permanent reforms to complement the new funding method. Low-income housing advocates and PHA industry groups generally opposed both the funding changes and the Bush Administration's proposed policy reforms.

In FY2007, Congress again changed the funding formula through the appropriations process. PHA funding was based on what they were spending in the previous year (rather than what they had been allocated in the previous year). As a result, PHAs that had not been spending all of their funding in FY2006 saw a reduction in funding in FY2007. Nonetheless, the funding provided was sufficient so that all PHAs received more than 100% of their 2006 costs and utilization. In FY2008 and FY2009, Congress adopted a cost and utilization-based formula similar to FY2007, but with a reduction in funding for PHAs with excess unspent funding in reserve. In FY2009, concerns were raised about how the implementation of the FY2009 formula may have left some PHAs without sufficient funding to continue serving all eligible families. Ultimately, Congress provided HUD with access to additional funding to help address shortfalls that could have resulted in families losing assistance. In FY2010-FY2012, Congress again adopted a cost and utilization-based formula, a hybrid of the "unit-based" and "budget-based" models. While Congress did not include a reduction for excess reserves in FY2010-FY2011, they did in FY2012.

During the period of solely "budget-based" funding formulas, utilization of both authorized vouchers and of available funding declined. Since the adoption of a cost and utilization-based funding model, utilization has begun to increase again. As utilization increases, the cost of the program to Congress increases. This presents a set of policy tradeoffs between the goal of cost containment and the goal of serving as many eligible families as possible. The Section 8 voucher renewal funding formula continues to be a source of debate in the annual appropriations cycle, as well as in Section 8 voucher reform bills, which have contained proposals for statutory formula changes. This report describes changes in the formula included in appropriations bills for FY2003 to the present.

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Introduction

Each year, Congress provides funding to the Department of Housing and Urban Development (HUD) to renew the more than 2.1 million Section 8 vouchers—also called Housing Choice Vouchers—authorized by Congress (see **Table 1** below). The Section 8 voucher program is federally funded and governed by federal rules, but is administered at the local level by quasi-governmental public housing authorities (PHAs). Section 8 vouchers are rental subsidies that low-income families use in the private market to help make up the difference between their rent and their expected contribution toward that rent (30% of adjusted income). The cost of a voucher to a PHA is the difference between the lesser of a tenant's actual rent or the maximum subsidy level set by the PHA—called a payment standard—and 30% of a tenant's income. That cost increases or decreases with changes in tenant incomes and changes in rents and payment standards. (For more information on Section 8 voucher reform proposals, see CRS Report RL34002, *Section 8 Housing Choice Voucher Program: Issues and Reform Proposals*, by Maggie McCarty.)

In recent years, Congress has enacted, and HUD has implemented, a series of changes in the way that voucher renewal funding is distributed to local PHAs. These changes have led to funding uncertainty for many PHAs, and has put pressure on Congress to adopt a permanent funding formula, possibly through enactment of Section 8 voucher reform legislation.

This report discusses the renewal funding formula changes that Congress has enacted as a part of the annual appropriations process, starting in FY2003, and concludes with a discussion of their effects.

Table 1. Section 8 Voucher Renewal Funding, FY2003-CY2012

(in billions of dollars)

Year	Renewal Funding
FY2003[a]	$11.106
FY2004[a]	12.721
CY2005[b]	13.355
CY2006[b]	13.949
CY2007[b]	14.436
CY2008[b]	13.972[c]
CY2009[b]	14.284[d]
CY2010[b]	16.331
CY2011[b]	16.669
CY2012[b]	16.592[e]

Source: Table prepared by CRS. Figures are derived from HUD budget documents. For more details, see CRS Appropriations Reports. Central Reserve funding, where applicable, is included. Amounts are not reduced for rescissions in prior year unobligated balances, but are reduced for rescissions from renewal funding.

Note: Final FY2013 appropriations legislation was not enacted before the end of FY2013. Instead, funding for all HUD programs, including the Section 8 voucher program, is being continued at FY2012 levels (plus 0.612%) through the earlier of enactment of final FY2013 appropriations legislation or March 27, 2013.

a. HUD did not track separate budget authority for tenant-based and project-based rental assistance prior to FY2005. These figures come from a table provided on page 21 of H.Rept. 108-674.

b. Beginning in FY2005, the amount provided for renewals is allocated to PHAs on a calendar year basis, rather than a federal fiscal year basis.

c. The FY2008 appropriations act provided $14.695 billion for renewal funding in FY2008, but also rescinded $723 million in renewal funding available for FY2008. The amount shown here is reduced for the rescission. It is assumed that an amount equivalent to the amount rescinded was available from reserves for purposes of voucher renewals, meaning that a full $14.695 billion was available for renewals in CY2008.

d. The FY2009 appropriations act provided $15.034 billion for renewal funding in FY2009, but also rescinded $750 million in renewal funding available for FY2009. The amount shown here is reduced for the rescission. It is assumed that an amount equivalent to the amount rescinded was available from reserves for purposes of voucher renewals, meaning that a full $15.034 billion was available for renewals in CY2009.

e. The FY2012 appropriations act provided $17.242 billion for renewal funding in FY2012, but it also rescinded $650 million in renewal funding available for FY2012. The amount shown here is reduced for the rescission. It is assumed that an amount equivalent to the amount rescinded was available from reserves for purposes of voucher renewals, meaning that a full $17.242 billion is available for renewals in CY2012.

Pre-FY2003 Funding

Prior to FY2003,[1] PHAs administering the voucher program were funded based on their average annual per-voucher cost from the previous year, adjusted by an inflation factor and multiplied by the number of vouchers that the PHA was authorized to lease.[2] Each PHA was provided with a reserve equal to one month of voucher funding that could be used in the event that a PHA's voucher costs increased faster than the inflation factor established by HUD. Despite the fact that they received full funding, few PHAs were able to lease 100% of their authorized vouchers.[3] Low utilization rates were a major concern of Congress for several years.[4] While PHAs are expected to have utilization rates of at least 95%,[5] in FY2000 and FY2001, national voucher utilization rates were just over 91%.[6] Since PHAs were not utilizing all of their vouchers, they typically had low budget utilization as well, meaning that they had more money in their budgets than they needed, and they rarely had to dip into their one-month program reserves, even if their costs rose significantly. At the end of the year, HUD and each PHA would reconcile their budgets, and HUD was typically able to recapture excess funds from PHAs' reserves.[7]

HUD generally used this same formula—last year's actual costs, plus an inflation, times the number of authorized vouchers—each year to determine how much funding to request from Congress for the renewal of tenant-based Section 8 vouchers. HUD would also make available to

[1] The formula in place prior to FY2003 was authorized by the Quality Housing and Work Opportunity Reconciliation Act of 1998 (P.L. 105-276, codified at 42 USC 1437f(dd)).

[2] PHAs "lease" vouchers when they sign contracts with tenants and landlords under which PHAs agree to provide payments to landlords on behalf of tenants. Each PHA has a fixed number of vouchers it is authorized to "lease."

[3] Low utilization during this period was attributed to a number of factors, including tight rental markets, low voucher limits (called payment standards), and, in some cases, poor management.

[4] Voucher utilization was the topic of Congressional hearings; an Appropriations subcommittee staff report on the topic was developed in the Senate (Empty Promises—Subcommittee Staff Report on HUD's Failing Grade on the Utilization of Section 8 Vouchers, September 12, 2000); and in the FY2001 appropriations law, Congress included language permitting PHAs to increase their payment standards to help increase utilization.

[5] According to HUD's Housing Choice Voucher Guidebook, 95% utilization is considered standard performance and 98% is considered high performance.

[6] Hearing before the House Subcommittee on VA, HUD and Independent Agencies, Hearing on the FY2003 HUD budget, 107th Congress, 2nd Session, March 19, 2002, document Part 6.

[7] HUD had the authority to permanently reallocate vouchers (and their accompanying funding) from PHAs that were not using all of their vouchers (and had surplus funding) to those PHAs that were using all of their vouchers and had excess demand. The Department published a notice in the Federal Register in November 2001 explaining the reallocation process, however, HUD never implemented the process or made any reallocations.

Congress for rescission those unused funds that the agency had recaptured from PHAs. The end result of this system *for PHAs* was that their funding increased along with their costs. If their costs dropped, they were permitted to use some of their excess funds to create new vouchers, a process called maximized leasing. The end result of this system *for Congress* was that each year it provided more funds for voucher renewals than PHAs could reasonably be expected to use, and then recaptured those unused funds the following year to offset the cost of that year's appropriation.

FY2003-FY2006: The Emergence of "Budget-Based" Funding

FY2003 Funding Changes

In FY2003, Congress changed the way PHAs were funded in an attempt to limit recaptures of unspent funds and provide funding levels that better reflected actual use. Since actual use of vouchers was lower than authorized use, this change reduced the amount of appropriations needed for the program. HUD was directed in the annual appropriations bill to fund PHAs based on their average annual per-voucher cost from the previous year, increased by the inflation factor, and multiplied by the number of vouchers the PHA could *reasonably be expected to lease in that year* (rather than the larger number of *authorized* vouchers). Specifically, the law stated,

> The Secretary shall renew expiring section 8 tenant-based annual contributions contracts for each public housing agency ... based on the total number of unit months which were under lease as reported on the most recent end-of-year financial statement submitted by the public housing agency to the Department, adjusted by such additional information submitted by the public housing agency ... regarding the total number of unit months under lease at the time of renewal of the annual contributions contract, and by applying an inflation factor based on local or regional factors to the actual per-unit cost as reported on such statement. (P.L. 108-7, Title II, Section (1))

HUD implemented this provision so that PHAs' budgets were based on their utilization rates and costs as reported on their end-of-the-year statements, *or more recent data*, if available. As stated in guidance released by HUD:

> Renewal calculations under the [Federal Fiscal Year] 2003 Appropriation will be based on the total number of unit months under lease and actual cost data, as reported on the PHA's most recent year-end settlement or as subsequently submitted to HUD by the PHA. Actual costs will be adjusted by applying the [Annual Adjustment Factors]. Expiring voucher funding increments will generally be renewed for terms of three months. The use of the most recent leasing and cost data and the short renewal terms will enable HUD to calculate funding more accurately than previous procedures allowed. (HUD Notice PIH 2003-23, Issued September 22, 2003)

Congress also created a Central Reserve fund to be used by the Secretary to replenish PHA one-month reserves in the event that PHAs had to use their reserves to cover the costs of increased utilization or increased per-voucher costs. The language of the law stated, in regard to the Central Reserve fund:

> The Secretary may use amounts made available in such fund, as necessary, for contract amendments resulting from a significant increase in the per-unit cost of vouchers or an increase in the total number of unit months under lease as compared to the per-unit cost or the total number of unit months provided for by the annual contributions contract. (P.L. 108-7, Title II, Section (2))

Finally, the bill instituted restrictions on maximized leasing, stating that none of the funds provided in the act could be used to support more vouchers than a PHA was authorized to lease in a year. This presented problems for PHAs that were over-leased.[8] Many had to refrain from reissuing vouchers once families left the program in order to get their leasing back to their authorized level.

FY2004 Funding Changes

The FY2004 appropriations law continued in the direction of the FY2003 law, instructing HUD to fund PHAs based on actual utilization of vouchers—rather than on the total number of vouchers they were authorized to lease—and restricting the use of funds for maximized leasing. Moreover, the conference report that accompanied the FY2004 appropriations law stated that the conferees were concerned about "spiraling" cost increases in the voucher program and that they expected the Secretary to control costs.[9] As stated in the conference report:

> The conferees are aware that the Secretary has the administrative authority to control the rapidly rising costs of renewing expiring annual contributions contracts (ACC), including the budget-based[10] practice of renewing expiring ACCs, and expect the Secretary to utilize these tools. (H.Rept. 108-235, Title II)

The FY2004 appropriations language was changed from FY2003 to state:

> The Secretary shall renew expiring section 8 tenant based annual contributions contracts for each public housing agency ... based on the total number of unit months which were under lease as reported on the most recent end-of-year financial statement submitted by the public housing agency to the Department, or as adjusted by such additional information submitted by the public housing agency to the Secretary as of August 1, 2003 (subject to verification), and by applying an inflation factor based on local or regional factors to the actual per-unit cost. (P.L. 108-199, Title II, Section (1))

The FY2004 language also varied from the FY2003 language in terms of how the Central Reserve fund could be used: In FY2003, the Central Reserve fund could be used to replenish PHA reserves that had been depleted due to either increased utilization rates or increased costs. In FY2004, the Secretary could use Central Reserve funds only to replenish reserves depleted because of increased utilization, *not* increased costs:

> Language proposed by the House and Senate is not included to allow the Central Fund to also be used for increased per-unit costs as such costs have been reflected in the amount provided for renewals. (H.Rept. 108-401, Division G, Title II)

HUD issued a notice on April 22, 2004 (PIH 2004-7) implementing the FY2004 appropriations law. According to the notice, PHAs' budgets would be based on their utilization rates from their end-of-the-year statements, or more recent data if available, and costs as reported on their end-of-the-year statements as of August 1, 2003, adjusted by the annual adjustment factor (AAF), *but not adjusted by more recent data*, *even if available.* The notice stated that PHAs could appeal to the

[8] Some PHAs were over-leasing on purpose, as a way to fully utilize their budgets. Other PHAs were over-leased because more families were able to use their vouchers than had been estimated by the PHAs.

[9] The Government Accountability Office (GAO) estimated that, between 1998 and 2004, per voucher costs grew 42% in nominal dollars (25% in real dollars). The highest rate of growth happened between 2002 and 2003 and between 2003 and 2004 at 11% per year. There were a number of factors driving this cost growth, ranging from changes in the way the program was administered to changing market conditions. For more information, see GAO report 06-405, *Policy Decisions and Market Factors Explain Changes in the Costs of the Section 8 Programs*. See also, CRS Congressional Distribution Memo, *Factors behind cost increases in the Section 8 Housing Choice Voucher Program, FY2000-FY2004*, by Maggie McCarty (available from the author to congressional clients upon request).

[10] Budget-basing provides PHAs with a budget based on a fixed dollar amount, rather than a fixed number of vouchers.

Secretary only if they could document that *rental* costs in their areas had risen higher than the inflation factor adopted by HUD. The notice proved controversial. Some housing advocates contended that Congress gave HUD the authority to use a broader measure of inflation than the AAF, taking into account not just rental costs but also other changes in PHAs' costs, such as utility costs and changes in their tenant populations. The notice was not modified, and on August 31, 2004, HUD granted the appeals requests of 380 agencies out of approximately 400 that applied, distributing a total of $160 million from the Central Reserve. However, HUD did not necessarily provide the full level requested in each appeal.

FY2005 Funding Changes

The final FY2005 Consolidated Appropriations Act (P.L. 108-447) moved the program further in the direction of budget-based funding. It directed the Secretary to fund PHAs based on their voucher costs and utilization rates as of May-July 2004 plus the HUD-published AAF, adjusted for new tenant protection vouchers.[11] If a PHA's May-July data were not available, HUD was directed to fund the agency based on February-April 2004 data, or if these data were not available, to fund the PHA based on its most recently submitted year-end financial statement, as of March 31, 2004. If the amount provided in the law was insufficient to fund all PHA budgets under this formula, then the Secretary was directed to prorate agency budgets. According to the conference report (H.Rept. 108-792), PHAs were expected to manage their voucher programs within their budgets for CY2005, regardless of their actual costs. The report also stated that "HUD shall provide agencies with flexibility to adjust payment standards and portability policies as necessary to manage within their 2005 budgets." Agency reserves were reduced from the one-month to the one-week level and no Central Reserve was provided to replenish depleted reserves. Finally, the act continued the prohibition on maximized leasing.

The FY2005 appropriations act made another important change to the way that PHAs received their voucher renewal funding. Rather than funding PHAs for the federal fiscal year (October 1, 2004-September 30, 2005), the act funded PHAs for the calendar year (January 1, 2005-December 30-2005). The accounting change allowed for some one-time budget authority savings in the appropriations process. As a result, PHAs had to alter the way in which they budget for their voucher programs to a calendar-year cycle.

HUD published guidance implementing these provisions on December 8, 2004 (HUD Notice PIH 2005-1). Agencies received notification of their preliminary budget levels on December 17, 2004. At that time, PHAs were directed to inform HUD of any data errors within 10 days (although the deadline was later extended). The appeals were limited to data errors; agencies were told that they could not appeal the actual formula used for calculating their budgets. The final calculations, including a final proration factor, were published on January 21, 2005. Agencies were funded generally at 4.03% less than their May-July 2004 actual cost and utilization levels, plus the 2005 AAF. This proration factor of just less than 96% was implemented because the funding amount provided by Congress for voucher renewals was not sufficient to fund agencies at 100% of their formula eligibility.

According to CRS analysis of HUD funding data, the median change in PHA renewal budgets from FY2004 to FY2005 was an increase of 0.17%. This number hides a wide variance; the change at the fifth percentile was a decrease of 12% and the change at the 95th percentile was an

[11] Tenant protection vouchers are given to families being displaced from other HUD assistance programs (such as public housing). PHAs' costs may increase from one year to the next because of an increase in the number of tenant protection vouchers they are administering.

increase of 14%. On February 25, 2005, HUD published Notice PIH 2005-9, entitled "[PHA] Flexibility to Manage the Housing Choice Voucher Program in 2005." It identified administrative options available to PHAs to lower their costs in 2005. Suggestions included lowering payment standards; reducing utility assistance to families; restricting portability;[12] reviewing rents to ensure they are reasonable in the market; suspending the reissuance of vouchers when families leave the program; restricting bedroom sizes; instituting minimum rents; monitoring income eligibility more strictly; and terminating assistance to families due to insufficient funds.

FY2006 Funding Formula

The FY2006 HUD Appropriations Act (P.L. 109-115) distributed renewal funding using roughly the same formula as FY2005. HUD allocated renewal funds to PHAs based on the amount they were eligible to receive in CY2005 (prior to proration), plus inflation (using the AAF), adjusted for additional tenant protection vouchers or vouchers that were reserved for project-based use,[13] and prorated to fit within the amount appropriated. The act provided the Secretary with $45 million to adjust the budgets of agencies in two categories: (1) those for whom the May-July period used as the basis for CY2005 funding represented unusually low leasing or costs and who applied to the Secretary for an adjustment; and (2) those whose costs had risen due to unforeseen circumstances or portability billings. The prohibition on maximized leasing was retained in FY2006. HUD issued projected funding letters to all PHAs on January 19, 2006; PHAs were directed to respond with concerns by February 3, 2006. Again, the amount provided by Congress was insufficient to fund PHAs at their full CY2006 formula eligibility, so PHAs were funded at about 94% of their eligibility.

Implications of Changes, FY2003-FY2006

The changes enacted up through FY2006, particularly those enacted in FY2005 and FY2006, gave incentives to PHAs to reduce their costs. Those changes, partnered with a cooled rental housing market,[14] worked together to reverse the "spiraling" cost growth trend seen in 2003.[15] According to CRS analysis of data provided by the Congressional Budget Office, average annual per voucher costs remained flat from calendar year 2004 to calendar year 2005 and declined by about 1.5% from calendar year 2005 through September 2006. Utilization also declined, from a peak of over 98% in 2004 to around 90% as of September 2006.[16] This drop in utilization translated into nearly 100,000 fewer households receiving assistance in 2006 compared to 2004.[17] Most PHAs were not spending all of their funding and therefore had accumulated reserve funds.

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[12] Vouchers are nationally portable, meaning that if a family moves from the jurisdiction of one PHA to another, the family retains its assistance. However, if the new jurisdiction does not wish to permanently accept the new voucher (a process called absorption), the new jurisdiction can bill the old jurisdiction. This can present budget problems for the old jurisdiction if rents are significantly higher in the new jurisdiction.

[13] Vouchers are project-based when they are set aside for use in a particular unit of housing. This adjustment is provided for PHAs who had artificially low utilization rates in May-July 2004 because they had reserved vouchers for new units that were under construction.

[14] Rental markets began softening in 2002 and 2003 and remained flat in 2004.

[15] For more information about factors influencing the rise in voucher costs during that period, see U.S. Government Accountability Office, *Rental Housing Assistance: Policy Decisions and Market Factors Explain Changes in the Costs of the Section 8 Programs*, GAO-06-405, April 28, 2006, http://www.gao.gov/products/GAO-06-405.

[16] Utilization rates for 2004 come from HUD's 2004 Performance and Accountability Report; utilization rates for 2006 come from CRS analysis of currently unpublished HUD data.

[17] Department of Housing and Urban Development, *Congressional Justifications, FY2010 Budget*, Figure C-1, pp. F-2.

CRS analysis of HUD data indicated that PHAs had accumulated, on average, unspent balances of 10% of their budget authority from January 2005 through September 2006. Nationally, budget utilization dropped from a high of over 98% in 2003 and 2004 to under 92% in 2006.[18]

FY2007-Present: A Cost and Utilization-Based Funding Model

FY2007 Funding Formula

In FY2007, the debate continued between a strictly "budget-based" funding formula, in which PHAs are given a fixed pot of funding in which to administer their programs (such as in FY2006), and a "unit-based" formula, in which PHAs are funded based on what they need to maintain a certain voucher level (such as pre-FY2003).

For FY2007, then-President Bush requested that Congress continue to fund the voucher program using a budget-based formula similar to the one adopted in FY2005 and FY2006. The then-President's budget also requested that Congress lift the prohibition on maximized leasing, noting that, in a budget-based funding environment, some PHAs may be receiving more funding than they are permitted to use. According to CRS analysis of HUD data, as of the end of September 2006, 168 PHAs (or about 7% of all PHAs), were at their cap on authorized vouchers, so had excess funding they were not permitted to use to serve additional families from their waiting lists.

In the final FY2007 appropriations law (P.L. 110-5), Congress rejected President Bush's proposal. Instead, the law adopted a formula based on how much funding PHAs were using (similar to the formula enacted in FY2004), rather than a formula based on how much funding PHAs had received in the previous year. Specifically, in FY2007, PHAs received funding based on their leasing and cost data from their most recent 12 months of reported data, adjusted for the first-time renewal of tenant protection and HOPE VI vouchers and vouchers reserved for project-based contracts, inflated by the AAF, and prorated to fit within the amount appropriated. The law included a central reserve fund which the Secretary could use (1) for adjustments for PHAs that experienced a significant increase in renewal costs resulting from unforeseen circumstances or from voucher portability; and (2) for adjustments for public housing agencies experiencing a significant decrease in voucher funding, due to the formula shift, that could result in a loss of voucher units. The act continued the prohibition on over-leasing.

P.L. 110-28, an emergency supplemental funding bill, later amended the formula to provide exceptions for three categories of PHAs. First, certain Hurricane Katrina-affected agencies were funded on the basis of the higher of what they would have received under the FY2007 formula or what they received in FY2006. Second, agencies that would have lost funding under the FY2007 formula and had been placed under receivership within the prior 24 months were funded on the basis of the higher amount they received in FY2006. Third, agencies that spent more in FY2006 than their FY2006 allocations plus their unspent voucher and administrative fee balances were funded on the basis of what they received in FY2006.

Under the FY2007 formula change, PHAs (except for those noted above) were funded based on the amount of funding they were *using* in FY2006, rather than the amount of funding they *received* in FY2006. Those PHAs with higher costs and utilization rates relative to their FY2006 budgets did better under the FY2007 enacted formula than they would have done under President

[18] See footnote 17.

Bush's proposed formula; those PHAs with lower costs and utilization relative to their FY2006 budgets did worse. However, the funding provided was sufficient to fund all PHAs at more than 105% of their eligibility.[19] And, given that the eligibility was set on current usage, the amount provided should have been sufficient for agencies to continue to serve at least the same number of families and, in some cases more (as long as they were within their caps).

The FY2007 formula contained elements of both a unit-based funding formula and a budget-based funding formula. The formula was unit-based, in that PHAs' funding allocations were based, in part, on the number of vouchers they were using, and they were subject to caps in the number of vouchers they could use. The formula was also budget-based, in that PHAs were given a fixed budget in which to administer their programs.

FY2008 Funding Formula

Then-President Bush's FY2008 budget request again included a proposal for a strictly "budget-based" voucher funding formula, similar to the one requested in FY2007 and in place for FY2005 and FY2006. Specifically, he requested that agencies be funded in FY2008 based on what they were eligible to receive in calendar year 2007, adjusted for the AAF, and for costs associated with Family Self Sufficiency (FSS) program deposits and tenant protection vouchers, and pro-rated to fit within the amount appropriated. The accompanying text indicated that the President would seek to re-benchmark the formula using more recent cost and utilization data in the future, possibly in FY2009, as a part of a larger reform proposal.

The FY2008 Consolidated Appropriations Act (P.L. 110-161) adopted a cost and utilization-based funding formula similar to the one adopted in FY2007. Specifically, it funded agencies based on their leasing and costs in the prior calendar year, adjusted for the AAF, and for costs associated with FSS deposits, tenant protection vouchers, and vouchers set-aside for project-based commitments. As in FY2007, it provided a central reserve fund to allow HUD to make adjustments to the budgets of certain agencies, and provided an alternative formula for several categories of agencies: Katrina-affected agencies, those under receivership, and those that spent beyond their allocations.

Unlike FY2007, the FY2008 Act included a rescission that affected agencies' total funding. Specifically, the act reduced each PHA's funding level by the amount by which their unusable reserves exceeded 7% of the total they received in FY2007. Unusable reserves are reserves—or Net Restricted Assets (NRA)—in excess of what agencies need to reach 100% leasing. They were called "unusable" because the prohibition on maximized leasing (or over-leasing) had been maintained, so PHAs were legally unable to use those reserves, or NRA, to lease additional vouchers and serve additional families. The FY2008 Act rescinded $723 million in FY2008 renewal funding, which is the amount that PHAs were estimated to have in unusable reserves above 7% of their funding. These provisions "freed-up" unusable NRA, allowing Congress to reduce the total amount of new appropriations it provided for voucher renewals in FY2008, without reducing the total amount of funding available to PHAs to use for renewals in FY2008.

FY2009 Funding Formula

Again in FY2009, then-President Bush asked Congress to adopt a strictly "budget-based" funding formula like the one adopted in FY2005 and FY2006, basing PHA renewal funding on the amount of funding they received in the previous year. Again, Congress rejected the President's

[19] Based on data from HUD's website, available at https://www.hud.gov/offices/pih/programs/hcv/forums/fund.ppt#261,8,HAPFundingHiglights.

request. The FY2009 omnibus funding bill directed HUD to fund PHAs using roughly the same hybrid, cost and utilization-based formula adopted in FY2008.

It directed HUD to fund PHAs based on the number of vouchers they had leased, and the cost of those vouchers in FY2008, adjusted for inflation and a few other factors. Then, each PHA's allocation was prorated, or reduced, by an amount that corresponded with HUD's estimate of a portion of their Net Restricted Assets (NRA), both usable and unusable. The aggregate NRA offset equaled the amount rescinded ($750 million). PHAs were expected to then supplement their allocations of new funding with their unused NRA. The act also included a $100 million renewal set-aside, to make adjustments for agencies under certain circumstances (i.e. PHAs that faced an increase in renewal costs due to portability or unforeseen circumstances, faced an increase in leasing between the end of the fiscal year and the start of the calendar year, or had unused project-based vouchers and special vouchers for veterans).

CY2009 Shortfall

As directed by Congress, HUD based the CY2009 allocations on the utilization and cost data submitted by PHAs for FY2008. HUD used this same data to estimate PHAs' NRA. In some cases, HUD's estimates of costs (plus inflation), utilization, and NRA did not accurately represent PHAs' CY2009 costs, utilization, and NRA balances. In some cases, the inaccurate estimates resulted from inaccurately reported data; in some cases, the difference resulted from significant changes in the cost and leasing conditions of agencies between the end of FY2008 and the start of CY2009 (a period not captured in the data).

Regardless of the reason, some PHAs found that their CY2009 funding was insufficient to cover the costs of all the vouchers they were using to serve families. HUD estimated that as many as 15% of PHAs administering the voucher program faced such shortfalls. The department worked with agencies to determine which were facing shortfalls. Some were assisted with additional funding from the FY2009 $100 million renewal set-aside or $30 million in administrative fee funding that the department had set aside for this purpose. HUD had also been advising agencies as to how they could cut costs to stay within their budgets.[20] Generally, if a PHA does not have sufficient funding to renew all of its vouchers, the PHA may have to stop issuing vouchers, and, in some cases, families may lose assistance. HUD asked that agencies that were facing shortfalls first contact the department before terminating assistance to families.[21]

In response to concerns about families losing assistance, Congress enacted legislation permitting HUD to access some additional funding (up to $200 million) to shore-up the budgets of PHAs that were at risk of terminating assistance to families as a result of insufficient funding in CY2009.[22] This policy change effectively increased the amount of set-aside renewal funding provided to HUD in FY2009 to adjust agencies' budgets (originally, $100 million) and expanded its purposes to allow it to be used to prevent the termination of assistance.

[20] For more information, see the HUD presentation titled "Financial Management 2009," available at http://www.hud.gov/offices/pih/programs/hcv/webcasts/finman2009jun30.pdf; and "HUD Makes Funds Available to Housing Agencies with Section 8 Difficulties: HUD issues guidance to agencies to keep families housed," HUD News Release, HUD No. 09-143, July 31, 2009.

[21] Ibid.

[22] Specifically, P.L. 111-88 permitted HUD to allocate up to $200 million from the advance appropriation provided in FY2009 for use in FY2010 (which is available in the last quarter of CY2009) based on need, rather than based on the FY2009 funding formula.

FY2010 Funding Formula

FY2010 was the first budget request of the Obama Administration and it represented a different approach to voucher funding than that of the former Bush Administration. Specifically, the President's FY2010 budget requested a funding formula very similar to the model that had been in place since FY2007, based on PHAs' costs and utilization. The biggest difference in the request was that the Administration asked for the authority to offset agencies' budgets for excess reserves, at the Secretary's discretion, and then reallocate that offset funding to high-performing agencies or to agencies based on need. The budget also requested that the prohibition on over-leasing be lifted to allow PHAs to fully utilize their budgets.

The final FY2010 funding law (P.L. 111-117) adopted a funding formula similar to the one requested by the Administration and based on FY2009 cost and leasing data, adjusted for inflation and other factors. However, it did not provide the Secretary with the authority to offset agency budgets based on reserves, nor did it lift the prohibition on over-leasing. Unlike FY2008 and FY2009, the FY2010 allocation formula included no offset for unspent agency reserves.

FY2011 and FY2012 Funding Formula

As in FY2010 and each year since FY2007, in FY2011 and FY2012 Congress directed HUD to allocate Section 8 Housing Choice Voucher renewal funding to PHAs based on their costs and utilization. The FY2011 law (P.L. 112-10) contained no offset from PHA reserves; the FY2012 law (P.L. 112-55) included a rescission of $650 million, to be offset from allocations to PHAs with reserves above a certain level (to be determined by HUD).

FY2013 Continuing Resolution

Since final FY2013 appropriations legislation was not enacted before the end of FY2013, Congress enacted a continuing resolution (H.J.Res. 117) to extend funding for all HUD programs, including the Section 8 voucher program, at FY2012 levels (plus 0.612%) and under the conditions of that funding (i.e., using the FY2012 funding formula). The CR lasts through the earlier of enactment of final FY2013 appropriations legislation or March 27, 2013.

Implications of Changes, FY2007-Present

As noted earlier, just prior to, and shortly after, the formula changes that began in FY2003, PHAs were serving as many, and in some cases more families, than they were authorized to serve, and they were spending nearly every federal dollar they received. Following the funding formula changes that were enacted between FY2003 and FY2006, PHAs were serving fewer families and spending a smaller share of the federal funding they received. Low utilization of both funding and vouchers was prevalent when the voucher funding formula was changed again in FY2007.

Since the change from a strictly "budget-based" funding formula to the recent hybrid cost and utilization-based model, the utilization patterns of PHAs have begun to change again. Funding utilization has begun increasing from a low of around 91% in 2006 to 95% by the end of 2009.[23] Further, by the end of 2009, PHAs were serving over 150,000 more families than they were serving in 2006. This means that by 2009, PHAs were serving more families than they had in 2003, the previous high point in families served. While PHAs had accumulated large reserves during the budget-based formula days of 2005 and 2006, by the end of FY2009, much of those reserves had been spent down as a result of the rescissions enacted in FY2008 and FY2009. Per

[23] Department of Housing and Urban Development, *Congressional Justifications, FY2011 Budget*, Figure 2, p. J-9.

voucher costs, which remained relatively flat in CY2005 and CY2006, began rising again in CY2007, continued through CY2008 and CY2009,[24] and were anticipated to continue rising in CY2012.[25]

Legislative Reform Proposals

In recent years, some Members of Congress from both parties have introduced voucher reform legislation containing statutory changes to the voucher renewal funding formula, generally similar to the cost and utilization based formulas contained in recent appropriations acts. However, it is important to note that even if a new funding formula were to be adopted through the authorizing process, the Appropriations Committees could override the formula by adopting a different allocation formula in the annual appropriations act, as they have each year since FY2003. It is unclear whether the Appropriations Committees would defer to the authorizing committees in this circumstance.

Summary and Policy Considerations

Prior to FY2003, the Section 8 voucher program was funded much like an entitlement program; the amount provided by Congress was largely determined by a formula, limiting Congress's ability to constrain funding without facing the prospect of reducing the number of vouchers and providing little incentive for PHAs to restrain costs. In response to concern about inefficient funding allocations, as well as, later, rising costs, and in an attempt to obtain greater control over future cost growth, Congress enacted a series of funding changes, beginning with those enacted for FY2003. These changes resulted in a conversion of the program's funding structure into one more similar to other discretionary programs, in which grantees received an annual fixed sum of money, regardless of changes in their costs or the number of people served. While these changes gave Congress greater control over the program's budget, many PHAs argued the changes made the program more difficult to administer. PHAs have only limited control over their costs since the value of the subsidies provided to families is statutorily set (as roughly the difference between rent and 30% of income).

In areas where they did have control, such as in setting payment standards, selecting families from the waiting list, and issuing vouchers, many PHAs made changes. Some lowered their payment standards from 110% to 100% or less of local fair market rents. Since changes in payment standards only affect future families in the program, some PHAs undertook rent reasonableness reviews and reduced rents paid to landlords, some of whom accepted the cut, others of whom chose to no longer participate in the program. PHAs had the option of selecting higher-income families from their waiting lists (for whom subsidy costs are lower), although PHAs were still constrained by a requirement that 75% of all vouchers be targeted to the lowest-income families. Many PHAs intentionally reduced their utilization rates by not reissuing vouchers when families left the program. Agencies that intentionally lowered their utilization rates in order to save money in FY2004 likely encountered problems in FY2005, as their budgets were capped at their costs *and* utilization rates as of the third quarter of FY2004. It is likely that, at least for some PHAs whose costs had risen faster than their funding under the new formula, these changes resulted in fewer households receiving vouchers.

[24] Department of Housing and Urban Development, *Congressional Justifications, FY2011 Budget*, Figure 3, p. J-10.

[25] Department of Housing and Urban Development, *Congressional Justifications, FY2012 Budget*, p. H-9.

Data from HUD indicate that voucher costs leveled off and utilization rates declined from 2005 to 2006. According to CRS analysis of HUD data, average voucher costs declined by around 1.5% and average utilization declined by over 2% during that period. At the same time, some agencies were receiving more money than they were legally permitted to spend. Under the budget-based funding formulas in place in FY2005 and FY2006, PHAs' funding did not necessarily decrease if their costs decreased (for example, due to changes in the types of families served or changes in the rental market). Since maximized leasing was prohibited, some PHAs had funds that they were not permitted to spend, even if they had waiting lists for vouchers in their communities (7% of all PHAs had unusable funds, as of September 2006, according to CRS analysis).

The budget-based funding formula changes enacted through FY2006 were controversial with low-income housing advocates and PHA industry groups. Most low-income housing advocates called for a return to an actual-cost and unit-based formula. PHA advocacy groups were vocal about the difficult predicament they felt that the current formula put them in, given the statutory constraints under which they run their programs.

The FY2007 funding bill reversed recent trends by enacting a voucher renewal funding formula similar to the one that was in place when the changes first began. In FY2007, PHAs were funded based on the amount of funding *they were using* in the previous year, rather than the amount of money *they had received* in the previous year. As a result, PHAs that had large funding surpluses were eligible for less funding in FY2007, although funding for the program was sufficient to provide all PHAs with over 105% of their formula eligibility, meaning PHAs could continue to serve at least all of the families they had been serving, and additional families, as long as they were not overleasing. The FY2008 and FY2009 formulas followed the FY2007 formula closely, although they included reductions in the budgets of agencies that had more reserve funding than they were legally permitted to spend, paired with rescissions. These rescissions and offsets made unusable funding usable, and reduced the amount of appropriations needed to fund the program. The FY2010 and FY2011 formulas were similar to the FY2009 formula, except without a reduction related to reserves. In FY2012, again, agency reserves were used to offset the cost of renewals.

Now that the strictly "budget-based" funding model has been replaced with a cost and utilization-based model, PHAs again have an incentive to increase their utilization and spend all of their funding. As a result, costs and utilization have begun rising again. Since costs and utilization are rising, so is the cost of the program to Congress. As in FY2003 and FY2004, these rising costs could put pressure on policy makers to find ways to again contain costs in the program. Past cost containment strategies have been effective at reducing costs, but have also led to a reduction in the number of families served, and accumulations of unspent and unusable funds. Policy makers wishing to pursue future cost containment strategies may want to tailor policies that attempt to maintain a level of service to families, while minimizing the accumulation of unspent funds. Section 8 voucher reform legislation has proposed formula changes designed to maximize the number of families served, but not necessarily to firmly cap future cost growth. Further, even if such legislation is enacted, it could be overridden by future appropriations legislation.

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